

Amendment No. 1 to HB2917

Coleman
Signature of Sponsor

AMEND Senate Bill No. 2897

House Bill No. 2917*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-33-211(c)(3), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(3)

(A) If a court of competent jurisdiction orders a person to operate only a motor vehicle that is equipped with a functioning ignition interlock device and the judge makes a specific finding that the person is indigent, all costs associated with the lease, purchase, installation, removal and maintenance of such device or with any other cost or fee associated with a functioning ignition interlock device required by title 55, chapter 10, part 4 shall be paid exclusively from the interlock assistance fund established pursuant to § 55-10-412.

(B) Notwithstanding any other provision of title 55, chapter 10, part 4, no funds from the alcohol and drug addiction treatment fund administered by the department of mental health and developmental disabilities or any other funds designated for the treatment of drug or alcohol dependency or addiction shall be used for the lease, purchase, installation, removal or maintenance of such device or for any other cost or fee associated with a functioning ignition interlock device required by title 55, chapter 10, part 4.

SECTION 2. Tennessee Code Annotated, Section 40-33-211(f)(3), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(3)

(A) If a court of competent jurisdiction orders a person to operate only a motor vehicle that is equipped with a functioning ignition interlock device and the judge makes a specific finding that the person is indigent, all costs associated with the lease, purchase, installation, removal and maintenance of such device or with any other cost or fee associated with a functioning ignition interlock device required by title 55, chapter 10, part 4 shall be paid exclusively from the interlock assistance fund established pursuant to § 55-10-412.

(B) Notwithstanding any other provision of title 55, chapter 10, part 4, no funds from the alcohol and drug addiction treatment fund administered by the department of mental health and developmental disabilities or any other funds designated for the treatment of drug or alcohol dependency or addiction shall be used for the lease, purchase, installation, removal or maintenance of such device or for any other cost or fee associated with a functioning ignition interlock device required by title 55, chapter 10, part 4.

SECTION 3. Tennessee Code Annotated, Section 55-10-403, is amended by deleting subdivision (a)(1)(A)(i) in its entirety and substituting instead the following:

(a)(1)(A)(i) Any person violating § 55-10-401 shall, upon conviction thereof, for the first offense, be fined not less than three hundred fifty dollars (\$350) nor more than one thousand five hundred dollars (\$1,500); and the person shall be further punished as provided in subsections (s) and (t).

SECTION 4. Tennessee Code Annotated, Section 55-10-403(a)(1)(A)(iv), is amended by deleting the language “and the court shall prohibit the convicted person or persons from

driving a vehicle in this state for a period of time of two (2) years” and substituting instead the language “and the person shall be further punished as provided in subsections (s) and (t)”.

SECTION 5. Tennessee Code Annotated, Section 55-10-403(a)(1)(A)(v), is amended by deleting the language “and the court shall prohibit the convicted person or persons from driving a vehicle in this state for a period of time of not less than three (3) years nor more than ten (10) years” and substituting instead the language “and the person shall be further punished as provided in subsections (s) and (t)”.

SECTION 6. Tennessee Code Annotated, Section 55-10-403(a)(1)(A)(vi), is amended by deleting the language “and the court shall prohibit the person from driving a motor vehicle for a period of five (5) years. For the preceding sentence to apply, at least one (1) of the violations of § 55-10-401 must occur on or after July 1, 1998” and substituting instead the language “and the person shall be further punished as provided in subsections (s) and (t)”.

SECTION 7. Tennessee Code Annotated, Section 55-10-403(a)(1)(B)(iv), is amended by deleting the language “subdivision (a)(1)(A)” and substituting instead the language “subsection (t)”.

SECTION 8. Tennessee Code Annotated, Section 55-10-403(c)(1)(A)(iii), is amended by deleting the language “(c)(4)” and substituting instead the language “(c)(2)”.

SECTION 9. Tennessee Code Annotated, Section 55-10-403, is amended by adding a new subsection (t) thereto:

(t)

(1) The court shall require a person convicted of a violation of § 55-10-401 to drive only a motor vehicle with an ignition interlock device installed for the applicable periods set out in subdivisions (t)(2) – (5); provided, that such requirement and the issuance of a motor vehicle operator's license with an ignition interlock shall not occur until the person has been prohibited from driving

a motor vehicle for a period of five (5) years, notwithstanding the fact that it may be the person's first conviction, if:

(A) A person other than the driver is killed or suffers serious bodily injury as the proximate result of the driver's intoxication during the course of conduct that was the basis for a driver's conviction under § 55-10-401; or

(B) The person who was the driver has a prior conviction for a violation of § 39-13-106, § 39-13-213(a)(2), or § 39-13-218, in this state or a similar offense in another state.

(2) Except as provided in subdivision (t)(1), in addition to the other penalties set out for a first offense of § 55-10-401, a person convicted of a first violation of § 55-10-401 shall be prohibited from driving a vehicle in this state for a period of thirty (30) days, following which the person shall be ordered to operate only a motor vehicle that is equipped with a functioning ignition interlock device for a period of twelve (12) months and ordered to operate such vehicle during such time for the limited purposes set out in § 55-10-412(b).

(3) Except as provided in subdivision (t)(1), in addition to the other penalties set out for a second offense of § 55-10-401, a person convicted of a second violation of § 55-10-401 shall be prohibited from driving a vehicle in this state for a period of forty-five (45) days, following which the person shall be ordered to operate only a motor vehicle that is equipped with a functioning ignition interlock device for a period of twenty-four (24) months and ordered to operate such vehicle during such time for the limited purposes set out in § 55-10-412(b).

(4) Except as provided in subdivision (t)(1), in addition to the other penalties set out for a third or subsequent offense of § 55-10-401, a person

convicted of a third or subsequent violation of § 55-10-401 shall be prohibited from driving a vehicle in this state for a period of forty-five (45) days, following which the person shall be ordered to operate only a motor vehicle that is equipped with a functioning ignition interlock device for not less than three (3) years nor more than ten (10) years and ordered to operate such vehicle during such time for the limited purposes set out in § 55-10-412(b).

(5)

(A) If a person is ordered to drive only a motor vehicle with a functioning ignition interlock device, such person shall have functioning ignition interlock devices installed and fully operational on all motor vehicles operated by the person prior to applying for a driver's license of any kind and shall show proof of installation and operation of such device at the time of making application for such license to the department of safety or to the court. The department of safety shall not issue a driver license to any person required to operate only a motor vehicle equipped with a functioning ignition interlock device until such person provides proof of installation of such a device to the department.

(B) The period an offender is required to operate only those vehicles equipped with a functioning ignition interlock device as set out in subdivisions (t)(2) - (4) shall commence upon the date an offender is convicted of a violation of § 55-10-401 and the department of safety shall not issue a motor vehicle operator's license of any kind until after the offender has completed any driving suspension period imposed pursuant to this section.

(6)

(A) If a person is ordered to operate only a motor vehicle equipped with a functioning ignition interlock device pursuant to this subsection (t), and such person does not own or lease a vehicle or does not obtain a license requiring the use of a functioning ignition interlock device from the department of safety within ten (10) days from the expiration of such person's suspension period as provided for in this subsection (t), such person shall be required to:

(i) Wear a transdermal alcohol monitor; or

(ii) Maintain an in-home portable device that requires random breath tests over the course of a twenty-four-hour period that reads the blood alcohol content of such person every hour.

(B) If a monitor or in-home portable device is required pursuant to subdivision (t)(6)(A), such monitor or device shall report the blood alcohol content readings to the court, the board of probation and parole or any other agency, department, program, group, private entity or association that is responsible for the supervision of such person.

(C) Any person ordered to wear a transdermal alcohol monitor or maintain an in-home portable device, pursuant to subdivision (t)(6)(A), shall be required to wear such monitor or maintain such device for the entire period such person is required to operate only a motor vehicle equipped with a functioning ignition interlock device.

(D) If a court makes a finding that a person is indigent and unable to pay for the costs associated with a transdermal alcohol monitor or in-home device, the court shall order such person to pay any portion of the costs that the person has the ability to pay; provided, however, that such person shall pay a minimum of fifty percent (50%) of any costs associated

with such monitor or in-home device. Any portion of the costs associated with the use of such monitor or in-home device for which a person is unable to pay shall be paid exclusively from the interlock assistance fund established pursuant to § 55-10-412;

(7) This subsection (t) shall apply if at least one (1) of the violations resulting in the person's conviction for driving under the influence of an intoxicant occurred on or after January 1, 2011. If none of the violations resulting in the person's conviction for driving under the influence occurred on or after January 1, 2011, the law in effect when the violation occurred shall govern the person's punishment.

(8) Any person ordered to drive only a motor vehicle with a functioning ignition interlock device or any court ordering such pursuant to this subsection (t) shall comply with all applicable provisions set out in § 55-10-412.

SECTION 10. Tennessee Code Annotated, Section 55-10-403, is amended by deleting the subsections (d) and (f) in their entirety and redesignating existing subsections and all references thereto within the section accordingly.

SECTION 11. Tennessee Code Annotated, Section 55-10-406(a)(3), is amended by deleting the subsection in its entirety and substituting instead the following:

(3) Any law enforcement officer who requests that the driver of a motor vehicle submit to either or both tests authorized pursuant to this section, for the purpose of determining the alcohol or drug content, or both, of the driver's blood, shall, prior to conducting either test or tests, advise the driver that refusal to submit to the test or tests will result in the suspension by the court of the driver's operator's license; if the driver is driving on a license that is cancelled, suspended or revoked because of a conviction for vehicular assault under § 39-13-106, vehicular homicide under § 39-13-213, aggravated vehicular homicide under § 39-13-218, or driving under the influence of an intoxicant

under § 55-10-401, that the refusal to submit to the test or tests will, in addition, result in a fine and mandatory jail or workhouse sentence; and the refusal to submit to the test or tests will, in addition, result in the requirement that the person be required to operate only a motor vehicle equipped with a functioning ignition interlock device. The court having jurisdiction of the offense for which the driver was placed under arrest shall not have the authority to suspend the license of a driver or require the driver to operate only a motor vehicle equipped with a functioning ignition interlock device who refused to submit to either or both tests, if the driver was not advised of the consequences of the refusal.

SECTION 12. Tennessee Code Annotated, Section 55-10-406(a)(4)(A) is amended by deleting from the second sentence the language “made at the same time and by the same court as the court disposing of the offense for which the driver was placed under arrest” and by substituting instead the language “made at the driver’s first appearance or preliminary hearing in the general sessions court, but no later than the case being bound over to the grand jury, unless the refusal is a misdemeanor offense in which case the determination shall be made by the court which determines whether the driver committed the offense”.

SECTION 13. Tennessee Code Annotated, Section 55-10-406(a)(4)(A)(i), is amended by deleting the subdivision in its entirety and substituting instead the following:

(i) Thirty (30) days, if the person does not have a prior conviction for a violation of § 55-10-401, § 39-13-213(a)(2), § 39-13-218, § 39-13-106, or § 55-10-418, in this state, or a similar offense in any other jurisdiction, following which the person shall be ordered to operate only a motor vehicle which is equipped with a functioning ignition interlock device for a period of twelve (12) months and ordered to operate such vehicle during such time for the limited purposes set out in § 55-10-412(b);

SECTION 14. Tennessee Code Annotated, Section 55-10-406(a)(4)(A)(ii), is amended by deleting the subdivision in its entirety and substituting instead the following:

(ii) Forty five (45) days, if the person does have a prior conviction for an offense set out in subdivision (a)(4)(A)(i), following which the person shall be ordered to operate only a motor vehicle which is equipped with a functioning ignition interlock device for a period of twenty four (24) months and ordered to operate such vehicle during such time for the limited purposes set out in § 55-10-412(b);

SECTION 15. Tennessee Code Annotated, Section 55-10-406(a)(4)(A)(iii), is amended by deleting the subdivision in its entirety and substituting instead the following:

(iii) Five (5) years, if the court finds that the driver of a motor vehicle involved in an accident, in which one (1) or more persons suffered serious bodily injury, violated this subsection (a) by refusing to submit to such a test or tests, following which the person shall be ordered to operate only a motor vehicle which is equipped with a functioning ignition interlock device for a period of five (5) years and ordered to operate a motor vehicle for the limited purposes set out in § 55-10-412(b).

SECTION 16. Tennessee Code Annotated, Section 55-10-406(a)(4)(A)(iv), is amended by deleting the subdivision in its entirety and substituting instead the following:

(iv) Five (5) years, if the court finds that the driver of a motor vehicle involved in an accident in which one (1) or more persons are killed, violated this subsection (a) by refusing to submit to such a test or tests, following which the person shall be ordered to operate only a motor vehicle which is equipped with a functioning ignition interlock device for seven (7) years and ordered to operate a motor vehicle for the limited purposes set out in § 55-10-412(b).

SECTION 17. Tennessee Code Annotated, Section 55-10-406(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c) A person ordered to drive only a motor vehicle with a functioning ignition interlock device and a court ordering the use of such device pursuant to subdivision (a)(4)(A) shall comply with all provisions set out in § 55-10-412.

SECTION 18. Tennessee Code Annotated, Section 55-10-412, is amended by deleting the section in its entirety and substituting instead the following:

(a) For the purpose of this part:

(1) "Functioning ignition interlock device" means a device that connects a motor vehicle ignition system to a breath-alcohol analyzer and prevents a motor vehicle ignition from starting if a driver's blood alcohol level exceeds the calibrated setting on the device;

(2) "Ignition interlock provider" means an entity that has been approved and certified by the department of safety to provide the installation, monitoring and removal of functioning ignition interlock devices in this state; and

(3) "Transdermal alcohol monitor provider" means an entity that has been approved and certified by the department of safety to provide transdermal alcohol monitors in this state.

(b) The court shall order any person required to operate only a motor vehicle which is equipped with a functioning ignition interlock device, to operate a motor vehicle for the limited purposes of going to and from:

(A) The person's regular place of employment and any work-related driving;

(B) The office of the person's probation officer or other similar location for the sole purpose of attending a regularly scheduled meeting or other function with the probation officer by a route to be designated by the probation officer;

(C) A court-ordered alcohol safety program;

(D) A college or university in the case of a student enrolled full time in the college or university;

(E) A scheduled interlock monitoring appointment;

(F) A court-ordered outpatient alcohol or drug treatment program;

(G) A scheduled litter pickup work shift as required under § 55-10-403(s);
and

(H) The person's regular place of worship for regularly scheduled religious services conducted by a bona fide religious institution as defined in § 48-101-502(c).

(c) An order issued pursuant to § 55-10-403(t) or § 55-10-406(a) shall state with all practicable specificity the necessary time and places of permissible operation of a motor vehicle and shall be made a part of the order or judgment of the court. Any person seeking to obtain a motor vehicle operator's license of any kind after being ordered to drive only a motor vehicle with a functioning ignition interlock device installed shall present the order issued pursuant to § 55-10-403(t) or § 55-10-406(a) to the department, accompanied by a fee of sixty-five dollars (\$65.00). If the person has successfully completed a driver's license examination and has met all the requirements of § 55-10-403(t) or § 55-10-406(c) and this section, the department shall issue a license embodying the limitations imposed upon the offender so convicted.

(d) Section 55-10-403(t) and this section shall also be applicable to any Tennessee resident whose motor vehicle operator's license has been revoked because of a conviction in another jurisdiction for operating a motor vehicle while under the influence of an intoxicant.

(e) If a person is ordered to drive only a motor vehicle with a functioning ignition interlock device installed on such vehicle pursuant to § 55-10-403(t), such restriction shall be an additional condition of the person's probation or court supervision, provided such person is subject to probation or supervision for the entire period of such restriction.

(f) Upon ordering a functioning ignition interlock device pursuant to § 55-10-403(t) or § 55-10-406(a) the court shall establish a specific calibration setting two-

hundredths of one percent (.02%) nor more than four-hundredths of one percent (.04%) blood alcohol concentration at which the functioning ignition interlock device will prevent the motor vehicle from being started and the period of time that the person shall be subject to the restriction.

(g) Upon ordering the use of a functioning ignition interlock device pursuant to § 55-10-403(t) or § 55-10-406(a) the court shall:

(1) State on the record the requirement for and the period of use of the device and so notify the department of safety;

(2) Notify the board of probation and parole or any other agency, department, program, group, private entity or association that is responsible for the supervision of the person ordered to drive only a motor vehicle with a functioning ignition interlock device;

(3) Direct that the records of the department reflect:

(A) That the person may not operate a motor vehicle that is not equipped with a functioning ignition interlock device; and

(B) Whether the court has expressly permitted the person to operate a motor vehicle without a functioning ignition interlock device for employment purposes under subsection (o); and

(4) Direct the department to attach or imprint a notation on the driver's license of any person restricted under this section stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock device.

(h) Upon the court ordering a person to operate only a motor vehicle equipped with a functioning ignition interlock device pursuant to § 55-10-403(t) or § 55-10-406(a) the court, the board of probation and parole or any other agency, department, program, group, private entity or association that is responsible for the supervision of such person shall:

(1) Require proof of the installation of the functioning ignition interlock device;

(2) Require periodic reporting by the person for verification of the proper operation of the functioning ignition interlock device;

(3) Require the person to have the system monitored for proper use and accuracy by an entity approved by the department of safety at least every thirty (30) days or more frequently as the circumstances may require; and

(4) Notify the court of any of the person's violations of this part.

(i) A person prohibited under this part from operating a motor vehicle that is not equipped with a functioning ignition interlock device may not solicit or have another person attempt to start or start a motor vehicle equipped with such a device. Except as provided in subsection (n), a violation of this subsection (i) is a Class A misdemeanor.

(j) A person may not attempt to start or start a motor vehicle equipped with a functioning ignition interlock device for the purpose of providing an operable motor vehicle to a person who is prohibited under this section from operating a motor vehicle that is not equipped with a functioning ignition interlock device. Except as provided in subsection (n), a violation of this subsection (j) is a Class A misdemeanor.

(k) A person may not tamper with, or in any way attempt to circumvent, the operation of a functioning ignition interlock device that has been installed in a motor vehicle. Except as provided in subsection (n), a violation of this subsection (k) is a Class A misdemeanor.

(l) A person may not knowingly provide a motor vehicle not equipped with a functioning ignition interlock device to another person who the provider of the vehicle knows or should know is prohibited from operating a motor vehicle not equipped with a functioning ignition interlock device. Except as provided in subsection (n), a violation of this subsection (l) is a Class A misdemeanor.

(m) Any person violating subsections (i) - (l) and who is required to operate only a motor vehicle with a functioning ignition interlock device installed at the time of such violation shall also be required to operate only a motor vehicle with a functioning ignition interlock device for three (3) additional months, which shall be in addition to any time period in which such person is already required to operate only a motor vehicle with a functioning ignition interlock device.

(n) A person who violates subsections (i), (j), (k) or (l) commits a Class A misdemeanor.

(1) If the violation is the person's first, such person shall be sentenced to a minimum of forty-eight (48) hours of incarceration.

(2) If the violation is the person's second, such person shall be sentenced to a minimum of seventy-two (72) hours of incarceration.

(3) If the violation is the person's third or subsequent, such person shall be sentenced to a minimum of seven (7) consecutive days of incarceration.

(4) The penalty provisions of this subsection shall not apply if:

(A) The starting of a motor vehicle, or the request to start a motor vehicle, equipped with a functioning ignition interlock device is done for the purpose of safety or mechanical repair of the device or the vehicle, and the person subject to the court order does not operate the vehicle; or

(B) The court finds that a person is required to operate a motor vehicle in the course and scope of the person's employment, the requirements set out in subsection (o) are met, the vehicle is owned by the employer, and the vehicle is being operated by the person during regular working hours for the purposes of employment.

(o)

(1) Any person ordered to operate only a motor vehicle equipped with a functioning ignition interlock device pursuant to § 55-10-403(t) or § 55-10-406(a) may, solely in the course of employment, operate a motor vehicle, which is owned or provided by such person's employer, without installation of a functioning ignition interlock device, if:

(A) The court expressly permits such operation;

(B) The employer has been notified of such driving privilege restriction; and

(C) Proof of the notification set out in subdivision (o)(1)(B) is within the vehicle, provided to the court and provided to the person's probation officer or the person responsible for the supervision of the defendant.

(2) If a court permits a person to operate a vehicle pursuant to subdivision (o)(1), the court may also place additional driving restrictions on such person that the court deems necessary to ensure compliance with this section.

(3) Subdivision (o)(1) shall not apply if such employer is an entity wholly or partially owned or controlled by the person subject to this section. If such employer is an entity wholly or partially owned or controlled by the person subject to this section, the person shall be required to drive only a motor vehicle with a functioning ignition interlock device and no such employer exemption shall be available to such person.

(p) Any licensed ignition interlock provider providing a functioning ignition interlock device to a person pursuant to this part shall report to the department of safety and the board of probation and parole, or any other agency, department, program, group, private entity or association that is responsible for the supervision of a person who is ordered to drive only a motor vehicle with a functioning ignition interlock device

installed on such vehicle as a condition of such person's probation any evidence of such person's:

(1) Altering, tampering with, bypassing, or removing a functioning ignition interlock device;

(2) Failing to abide by the terms or conditions ordered by the court, including but not limited to, failing to appear for scheduled monitoring visits; and

(3) Attempting to start the motor vehicle while under the influence of alcohol.

(q)

(1)

(A) There is created in the state treasury a fund to be known as the interlock assistance fund. All money in such fund shall be used to pay for the costs associated with the lease, purchase, installation, removal and maintenance of ignition interlock devices, transdermal alcohol monitors, and in-home portable devices that require random breath tests, or with any other cost or fee associated with such required by this part of persons deemed by the court to be indigent. Moneys in the fund shall not revert to the general fund of the state, but shall remain available to be used as provided for in subdivision (q)(5).

(B) Interest accruing on investments and deposits of the interlock assistance fund shall be credited to such account, shall not revert to the general fund, and shall be carried forward into each subsequent fiscal year.

(C) Moneys in the interlock assistance fund account shall be invested by the state treasurer in accordance with § 9-4-603.

(2) The costs incurred in order to comply with the ignition interlock device, transdermal alcohol monitor, and in-home portable device requirements shall be paid by the person ordered to install or operate such, unless the court finds such person to be indigent. If a court determines that a person is indigent, the court shall order such person to pay any portion of the costs which the person has the ability to pay, as determined by the court; provided that the person shall pay a minimum of fifty percent (50%) of the costs associated with such device or monitor. Any portion of the costs the person is unable to pay shall come from the interlock assistance fund established pursuant to this section.

(3) Whenever a person ordered to install or maintain a device or monitor pursuant to § 55-10-403(t) or § 55-10-406(a) asserts to the court that the person is indigent and financially unable to pay for such a device or monitor, it shall be the duty of the court to conduct a full and complete hearing as to the financial ability of the person to pay for such device and, thereafter, make a finding as to the indigency of such person.

(4) Every person who informs the court that the person is financially unable to pay for an ignition interlock device, transdermal alcohol monitor, or in-home portable device shall be required to complete a uniform affidavit of indigency. If the person intentionally misrepresents, falsifies or withholds any information required by the affidavit of indigency, such person commits perjury as set out in § 39-16-702.

(5)

(A) A person ordered to install or maintain an ignition interlock device, transdermal alcohol monitor, or in-home portable device pursuant to this part shall pay a forty-seven dollar (\$47.00) device and monitor administrative fee each month that the person is ordered to have such

device or monitor installed or maintained, unless the court has determined such person to be indigent pursuant to this section. The fee shall be in addition to any cost for leasing, purchasing, installing, monitoring, removing or maintaining the device or monitor. The fee shall be collected by the device or monitor provider installing or leasing the device or monitor. The ignition interlock provider shall remit the fees monthly to the state treasurer who shall allocate such fees as follows:

(A) Forty-five dollars (\$45.00) to the interlock assistance fund for the purpose of paying for the all costs associated with the lease, purchase, installation, removal and maintenance of such device or with any other cost or fee associated with a functioning ignition interlock device required by this part for persons found to be indigent by the court; and

(B) Two dollars (\$2.00) to the department of safety to be used to defray the expenses of administering this act.

(6) Each transdermal alcohol provider, in-home portable device provider and ignition interlock provider shall pay a five percent (5%) surcharge on the gross profits from the previous year made as a result of the leasing, installing, monitoring, removing or maintaining of ignition interlock devices, transdermal alcohol monitors or in-home portable devices in this state and shall remit such surcharge to the interlock assistance fund on an annual basis as determined by the treasurer.

SECTION 19. Tennessee Code Annotated, Section 55-50-504, is amended by adding the following new subsection (k) thereto:

(k) Notwithstanding subdivision (a)(1), a person who drives a motor vehicle without a functioning ignition interlock device installed on such vehicle within the entire

width between the boundary lines of every way publicly maintained that is open to the use of the public for purposes of vehicular travel, or the premises of any shopping center, manufactured housing complex or apartment house complex or any other premises frequented by the public at large at a time when the person was required by law to drive only a motor vehicle equipped with a functioning ignition interlock device commits a Class A misdemeanor and shall be punished by a fine only of twenty five hundred dollars (\$2,500).

SECTION 20. The provisions of this act shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the General Appropriations Act.

SECTION 21. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 22. For the purpose of promulgating rules and regulations necessary to effectuate this act, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2011, the public welfare requiring it, and shall apply to offenses of driving under the influence occurring on or after the effective date of this act.